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Attorneys for Plaintiff,  
U.S. SMALL BUSINESS ADMINISTRATION,  
as Receiver for PROSPERO VENTURES, L.P.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

U.S. SMALL BUSINESS  
ADMINISTRATION, as Receiver for  
PROSPERO VENTURES, L.P.,

Plaintiff,

v.

DONALD K. EMERY,

Defendant.

NO. C 07-03741 VRW

**Related Cases:**

C 07-03732, C 07-03733, C 07-03735,  
C 07-03736, C 07-03737, C 07-03738,  
C 07-03739, C 07-03740

**STIPULATION TO CONTINUE  
CASE MANAGEMENT  
CONFERENCE AND [PROPOSED]  
ORDER THEREON**

This stipulation is entered into by and between Plaintiff, U.S. SMALL BUSINESS  
ADMINISTRATION, as Receiver for PROSPERO VENTURES, L.P., and Defendant, DONALD  
K. EMERY, on the following recitals, terms, and agreements:

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**RECITALS**

This stipulation is entered into with the following facts taken into consideration:

- A. Plaintiff filed the above-captioned action on July 19, 2007.
- B. Plaintiff thereafter served the complaint on Defendant on August 13, 2007.
- C. Defendant filed an answer on October 19, 2007.
- D. On November 20, 2007, the parties filed a joint case management statement.
- E. On November 27, 2007, the following nine cases were determined to be related:
  - 1. U.S.S.B.A. v. Jane Sloane - Case No. C 07-03732 VRW;
  - 2. U.S.S.B.A. v. Insenser and Martinez - Case No. C 07-03733 VRW;
  - 3. U.S.S.B.A. v. High Growth - Case No. C 07-03735 VRW;
  - 4. U.S.S.B.A. v. Jarrat Enterprises - Case No. C 07-03736 VRW;
  - 5. U.S.S.B.A. v. John Murphy - Case No. C 07-03737 VRW;
  - 6. U.S.S.B.A. v. Rainbow Enterprises - Case No. C 07-03738 VRW;
  - 7. U.S.S.B.A. v. John Sloane - Case No. C 07-03739 VRW;
  - 8. U.S.S.B.A. v. Luzon - Case No. C 07-03740 VRW; and
  - 9. U.S.S.B.A. v. Donald K. Emery - Case No. C 07-03741 VRW;
- F. Defendant and the five following Defendants are represented by the same law firm:
  - 1. Jane Sloane - Case No. C 07-03732 VRW;
  - 2. Jarrat Enterprises - Case No. C 07-03736 VRW;
  - 3. John Murphy - Case No. C 07-03737 VRW;
  - 4. John Sloane - Case No. C 07-03739 VRW; and,
  - 5. Rainbow Enterprises - Case No. C 07-03738 VRW
- G. Plaintiff and the six aforementioned Defendants have agreed to participate in the Court's mediation program with the assistance of James Barber, having reserved February 26, 2008, and February 27, 2008, for this purpose.
- H. Defaults have been entered against the following three Defendants: Insenser and Martinez (Case No. C 07-03733 VRW), High Growth (Case No. C 07-03735 VRW), and Luzon (Case No. C 07-03740 VRW). Accordingly, the aforementioned three Defendants have not been

asked to consent to this continuance nor will the defaulted parties be prejudiced by the continuance.

I. On today's date, the parties will be submitting a joint application seeking permission from this Court to complete mediation beyond the Court's deadline of February 2, 2008.

J.. In order to promote judicial economy, the parties herein jointly request a continuance of the Case Management Conference until February 28, 2008, at 3:30 p.m. in order to complete the mediation process prior to the case management conference.

### STIPULATION

With the above facts taken into consideration, the adequacy and sufficiency of which are hereby acknowledged, the parties do hereby stipulate and agree as follows:

1. The case management conference shall be continued to February 28, 2008 at 3:30 p.m.

2. This stipulation may be executed in counterparts and a facsimile and/or electronic signature shall be considered as valid as an original.

Dated: January 3, 2008

COLEMAN & HOROWITT, LLP

By: /s/ Darryl J. Horowitz

DARRYL J. HOROWITT  
Attorneys for Plaintiff

Dated: January 3, 2008

DONOGHUE, BARRETT & SINGAL, P.C.

By: /s/ Damien C. Powell

Bruce A. Singal  
Damien C. Powell  
Appearance *Pro Hac Vice*  
Attorneys for Defendant,

O'CONNOR & ASSOCIATES

John O'Connor  
Attorney for Defendant,

1 *U.S. Small Business Administration,*  
2 *as Receiver for Prospero Ventures, L.P.*  
3 *v. Donald K. Emery*  
4 Case No. C 07-03741 VRW

5 **ORDER**

6 The parties having so stipulated, and good cause appearing therefore,

7 IT IS HEREBY ORDERED that:

- 8 1. The case management conference shall be continued to February 28, 2008 at 3:30  
9 p.m.

10 Dated: \_\_\_\_\_

11 \_\_\_\_\_  
12 HONORABLE VAUGHN R. WALKER  
13 U.S. DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
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**PROOF OF SERVICE**

I am a citizen of the United States of America and a resident of the State of California. I am over the age of eighteen (18) years. My business address is Coleman & Horowitz, LLP, 499 W. Shaw Avenue, Suite 116, Fresno, CA 93704.

On January 3, 2008, I served the foregoing document(s) described as **STIPULATION TO CONTINUE CASE MANAGEMENT CONFERENCE AND [PROPOSED] ORDER THEREON** on the interested parties as listed below:

Via Electronic Mail by Filing Electronically With the Northern District Court of California:

Bruce A. Singal  
Damien C. Powell  
DONOGHUE, BARRETT & SINGAL, P.C.  
One Beacon Street  
Boston, MA 02108

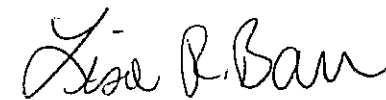
John O'Connor  
O'CONNOR & ASSOCIATES  
One Embarcadero Center, Suite 1020  
San Francisco, CA 94111

Attorneys for Defendant

Via Overnight Mail:

Hon. Vaughn R. Walker  
U.S. District Court, Northern District  
450 Golden Gate Avenue  
San Francisco, CA 94102

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 3, 2008, in Fresno, California.



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Lisa R. Barr